

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONALD KIE, JR.,

Petitioner,

v.

WARDEN GARRETT, et al.,

Respondents.

Case No. 3:20-cv-00709-RCJ-CLB

ORDER

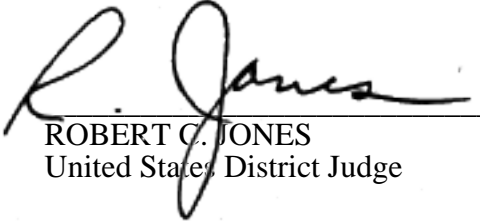
This is a habeas corpus action under 28 U.S.C. § 2254. Currently before the court are respondents motion to strike the second amended petition, ECF No. 27, and petitioner's motion to amend second amended petition, ECF No. 30. In their motion to strike, respondents argue that the second amended petition improperly incorporates by reference the allegations in the original petition and the first amended petition. ECF No. 27 at 3. In his motion to amend, petitioner states that he has prepared a third amended petition that eliminates the incorporation by reference and that makes other minor changes. ECF No. 30 at 3. Respondents do not oppose petitioner's motion. ECF No. 32. Respondents also agree that the granting of petitioner's motion makes their own motion moot. ECF No. 33. The court will grant petitioner's motion to amend, and the court will deny as moot respondents' motion to strike.

IT THEREFORE IS ORDERED that respondents motion to strike the second amended petition (ECF No. 27) is **DENIED** as moot.

1 IT FURTHER IS ORDERED that petitioner's motion to amend second amended petition
2 (ECF No. 30) is **GRANTED**. Petitioner must file the third amended petition within 7 days of the
3 date of entry of this order.

4 IT FURTHER IS ORDERED that the briefing schedule for a response and further briefing
5 in the court's order of May 28, 2021 (ECF No. 17), remains in effect for the third amended
6 petition.

7 DATED: April 11, 2022.

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9 ROBERT C. JONES
10 United States District Judge
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